

**TEMPLATE AGREEMENT FOR THE SALE OF AN EXISTING NEW OR SECOND HAND STOCK BOAT
THIS DOCUMENT IS INTENDED TO CREATE A LEGALLY BINDING CONTRACT;
IF YOU ARE UNSURE AS TO THE EFFECT OF ANY OF ITS PROVISIONS YOU ARE
ADVISED TO TAKE APPROPRIATE PROFESSIONAL ADVICE**

Contract Number
Craft Identification No. / Hull Identification Number
Builder's Number

THIS AGREEMENT is made the _____ day of _____

BETWEEN

1. [_____] a limited company incorporated in England & Wales(Reg.no. _____) /a partnership whose principal place of business is [_____] and represented by [name of authorised rep] ("the **Sellers**")

AND

2. [_____] of [_____] "the **Purchaser**"

(jointly "the **Parties**")

1. 1. AGREEMENT TO SELL and BUY "AS IS WHERE IS"

- 1.1. The Sellers agree to sell and the Purchaser agrees to buy the boat named "[insert boat name]" being a [insert type / size / model] and any extras and equipment listed in the Inventory set out at Schedule 1 (together "the Boat") "AS IS WHERE IS" in accordance with the terms of this Agreement.
- 1.2. The inventory lists the items comprised within the sale but is not a specification or contractual description of them.
- 1.3. The Purchaser must satisfy himself as to the type and description of the Boat and its condition.

2. PURCHASER'S RIGHT TO SURVEY AND SEA TRIAL THE BOAT [OPTIONAL]

- 2.1. Following signature of this Agreement the Purchaser shall have the right to survey and inspect the Boat at a time and place mutually convenient to the Parties, provided that any such survey or inspection shall be completed within [7] days of the date of this agreement. The Purchaser shall be solely responsible for the cost of any necessary transport, launching, slipping or craning ashore and any other costs incidental to the survey.
- 2.2. The Purchaser shall be entitled within [3] days [before] / [after]* inspection and survey, to require the Seller to perform a sea trial of the Boat. The duration of the sea trial shall be proportionate to the cost and complexity of the Boat and its systems but unless specifically agreed at the date of this Agreement shall not be shorter than 20 minutes nor longer than 2 hours. The Seller shall be obliged to insure the Boat for the duration of the sea trial and shall provide any necessary crew. The Purchaser shall be entitled to be accompanied by up to two surveyors or advisers, any co-purchasers and not more than 1 member of his immediate family, subject to space constraints. The sea trial shall take place in reasonable weather conditions and not more than 5 miles offshore. Unless agreed otherwise the Purchaser and his party shall be responsible for supply of their own lifejackets and other safety equipment. The Purchaser shall be responsible for the cost of any fuel and oils consumed during the sea trial.
- 2.3. Within [3] days of completion of any sea trial or survey, or if neither is undertaken within [10] days of the date of this Agreement (whichever is the later) the Purchaser shall be entitled to reject the Boat by written notice to the Seller clearly stating that the Boat is rejected. If no such notice is given within the prescribed time the Purchaser shall be deemed to have accepted the Boat.
- 2.4. If the Purchaser validly rejects the Boat and provided that the Purchaser has paid all incidental costs relating to any survey or sea trial the Seller shall promptly return the deposit to the Seller, otherwise the Seller may retain sufficient funds to cover the unpaid costs of any survey and sea trial and return any balance to the Purchaser.

3. MODIFICATIONS AND CHANGES TO THE BOAT

- 3.1. No modifications or changes to the Boat, Contract Price or estimated delivery date shall be binding on the Parties unless they have been set out in writing and signed by the Parties or their authorised representatives.
- 3.2. The Sellers shall have the right to decline to make any modification or change to the Boat proposed by the Purchaser after the signing of this Agreement .
- 3.3. If the Sellers agree to make modifications or changes to the Boat which involve the provision of additional work, parts or services they will provide the Purchaser with an estimate of any increase in the Contract Price and the basis on which it is calculated. If the Purchaser agrees the modification he shall pay the Sellers 50% (one half) of the estimated price increase at the time that the modifications are agreed with the balance of the actual firm cost payable immediately prior to delivery of the Boat on presentation by the Sellers of the relevant invoice.

4. CONTRACT PRICE, PAYMENT AND TITLE

- 4.1. Save as provided in Clause 3.3 the price of the Boat is £ _____ inclusive of VAT ("the Contract Price"). The Purchaser agrees to pay the Contract Price to the Sellers as follows:
 - 4.1.1. A deposit of £ [suggest 10%] ("the Deposit") on signing this Agreement
 - 4.1.2. The balance of £ [suggest 90%] immediately prior to delivery of the Boat on the Delivery Date
- 4.2. Time for payment of the Contract Price shall be of the essence in this Agreement.
- 4.3. Payment shall be deemed to have been made when the Sellers receive cleared funds at their bank.
- 4.4. Title in the Boat will pass to the Purchaser upon full payment of the Contract Price to the Sellers. The Sellers will thereupon give the Purchaser all relevant documentation listed at Schedule 3 together with a receipted VAT invoice, where applicable.

5. SELLERS RIGHTS IN EVENT OF LATE PAYMENT

- 5.1. If the Purchaser fails to pay the Deposit or balance in accordance with Clause 4.1 without good reason then the Sellers shall immediately be entitled to advertise the Boat for resale and to resell the Boat (or any part of it which is readily removable and which is separately priced in the Inventory such as outboard engine, trailer, launch trolley or equipment);
- 5.2. Pending resale the Sellers may charge the Purchaser interest on the amount outstanding at 4% over the Bank of England base rate calculated from the date upon which the payment was due until the date on which it is actually received or the Boat is resold.
- 5.3. This Agreement shall be terminated by resale to a third party or, at the Sellers' option may be terminated after 28 days' delay on the part of the Purchaser in making payment. On termination under this Clause the Sellers shall be entitled to claim from the Purchaser any loss and damage which they have sustained as a result of the resale or delay in payment due to them and to deduct the reasonable amount of such claim from any deposit which the Purchaser has paid. After any such deduction any balance of the deposit shall be returned to the Purchaser.

6. DELIVERY

- 6.1. The Sellers shall make the Boat ready for delivery at _____ (place) on _____ (date) ("the Delivery Date"). The Boat shall be [in the water / on land] at delivery.
- 6.2. This date for delivery is given in good faith and the Sellers shall use every reasonable endeavour to meet it but it is not guaranteed. In particular the Sellers shall not be responsible for a delay in delivery caused by the fitting of extras, making modifications to the Boat or by delays in road or sea delivery or for other causes reasonably beyond their control.
- 6.3. Immediately prior to delivery the Sellers will discharge any stocking finance or similar borrowing secured on the Boat.
- 6.4. On delivery the Sellers and Purchaser will jointly sign a protocol of delivery and acceptance. From the moment of the Purchaser's signature on the Protocol of Delivery and Acceptance the Boat and all its gear and equipment shall be the responsibility and at the risk of the Purchaser who will be immediately responsible for insuring it.
- 6.5. The Purchaser shall take delivery of the Boat immediately upon signature by the Purchaser of the

Protocol of Delivery and Acceptance. If the Purchaser fails to take delivery of the Boat without good reason then, in addition to any other rights which the Sellers may have, the Sellers shall be entitled to require the Purchaser to pay the reasonable berthing and/or storage charges together with any other expenses reasonably incurred by the Sellers, including insurance, maintenance and lifting of the Boat in or out of the water until actual delivery shall take place.

6.6. The Purchaser and the Sellers expressly agree that the Sellers shall not be responsible for investigating or otherwise ensuring that the Purchaser is competent and experienced in the proper control and navigation of the Boat. A list of boat handling and training establishments is available from the Royal Yachting Association.

7. WARRANTIES

7.1. The Sellers will assign to the Purchaser any rights which they may have against the manufacturer or importer of the Boat or any component part of it or its equipment.

7.2. In addition to Clause 7.1 and the Purchaser's statutory rights the following warranties shall apply:

7.3. Subject to the conditions which are set out at Clause 7.4 the Sellers warrant to the Purchaser that the Boat will:

7.3.1. be of satisfactory quality and reasonably fit for the purpose(s) made known to the Sellers prior to the date of this Agreement; and

7.3.2. be free from defects in materials and workmanship for a period of 12 months from the date of delivery;

7.4. The warranties set out in Clauses 7.3 shall be subject to the following conditions:

7.4.1. The Sellers shall have no liability:

7.4.1.1. for any defect which arises as a result of commercial use of the Boat;

7.4.1.2. if the Boat is used for racing under power ;

7.4.1.3. for misuse of the Boat;

7.4.1.4. for lack of maintenance, wear and tear or operator error

7.4.1.5. for any defect or regulatory non-conformity in the Boat which arises directly as a result of the Purchaser's modification of the Boat or the Purchaser's use of the boat for any purpose which was not disclosed to the Seller before the making of this Agreement

7.5. The Sellers shall be given every reasonable opportunity to repair or replace or to arrange for the repair or replacement of any defect or deficiency in workmanship, materials or equipment.

7.6. The Purchaser shall notify the Sellers in writing as soon as reasonably practicable on discovery of any alleged defect or deficiency and the Sellers or their agent shall have the right to inspect the Boat including the right to carry out sea trials to enable the Sellers or their agent to examine or assess the extent of the alleged defect or deficiency. The expense of any such trials shall be borne by the Sellers if the defect is shown to be one of workmanship or materials.

8. INSURANCE

8.1. The Sellers shall keep the Boat insured for its market value from the date of this Agreement until the date of delivery.

8.2. In the event that the Boat sustains damage at any time before delivery any monies received in respect of the insurance shall be applied by the Sellers in making good the damage in a reasonable and workmanlike manner and the delivery date shall be extended by such period as shall be reasonably necessary to effect the necessary repairs. The Purchaser shall not be entitled to reject the Boat on account of minor damage or to make any claim in respect of any resultant depreciation. For the purposes of this Clause "Minor damage" shall be damage which is not structural and which can be fully reinstated for a cost not exceeding 5% of the Contract Price. Where the damage is not "Minor Damage" within the meaning of this Clause the Purchaser shall be entitled to reject the Boat and to receive a full refund of the amount of the deposit and any other payments which he has made towards the Boat. This Agreement will then terminate in all respects as if it had been duly completed and the Purchaser shall have no further right to claim against the Sellers.

9. TERMINATION FOR INSOLVENCY

9.1. Either Party shall be entitled to terminate this Agreement by written notice if the other Party becomes

insolvent or initiates or becomes subject to any formal insolvency procedure;

10. COPYRIGHT

- 10.1. Any copyright or similar protection in manuals, drawings, plans, specifications, including the Specification prepared by the Sellers or their employees or agents, shall remain the property of the Sellers.

11. NOTICES

- 11.1. Any notice under this Agreement may be given to a Party by being handed to the party concerned or sent by first class post or by fax confirmed by first class post to the address as shown on page 1. Notice sent by first class post shall be deemed to have been received 72 hours after the time of posting and any notice sent by fax shall be deemed to have been received on the next working day provided that the sender shall have retained a confirmed transmission report. In proving service of any notice it shall be sufficient to prove that delivery was made or that the envelope containing the notice was properly addressed.

12. LAW, JURISDICTION and DISPUTE RESOLUTION

- 12.1. This Agreement shall be subject to and governed by English law.
- 12.2. Any dispute arising under this Agreement shall be submitted to the exclusive jurisdiction of the Courts of England and Wales.
- 12.3. The BMF and the RYA recommend that disputes arising under this form of Agreement which cannot be resolved by negotiation, should, with the written agreement of the Parties, be submitted to mediation or failing that to arbitration under the BMF's Dispute Resolution Scheme, which is approved by the RYA.
- 12.4. Details of the mediation scheme operated by the BMF are available at www.britishmarine.co.uk/mediation.
- 12.5. Matters suitable for arbitration shall be submitted to a single Arbitrator in accordance with the BMF's Dispute Resolution Scheme. The provisions of the Arbitration Act 1996 shall apply.

Where the Purchaser is a consumer the agreement to submit disputes to dispute resolution is not enforceable against the Purchaser who will be entitled to refer any dispute to the Courts.

13. INTERPRETATION

- 13.1. The construction and meaning of this Agreement is not to be affected by any headings.

14. VARIATIONS AND ADDITIONS

- 14.1. This Agreement is subject to the variations and additions set out below or identified below and attached to this Agreement and initialled and dated by both Parties.

Signed for and on behalf of the Sellers

In the presence of:
Full name of witness
Address
Occupation
Signature

Signed for and on behalf of the Purchaser

In the presence of:
Full name of witness
Address
Occupation
Signature

SCHEDULE 1 - INVENTORY

The Boat is of the following type and is supplied with the following gear and equipment

SCHEDULE 2 - PROTOCOL OF DELIVERY & ACCEPTANCE

Contract Number

Place of Delivery

Date of Delivery

Persons present at Delivery

We have today delivered the Boat to the Purchaser at the time and place described above

Signed by [], the Sellers

I hereby acknowledge delivery of the Boat in accordance with the terms of this Agreement and I accept all risk and responsibility in it

Signed by [], the Purchaser

Timed
Dated

SCHEDULE 3 – DOCUMENTS TO BE PROVIDED ON COMPLETION OF PURCHASE

1. Any Certificates of Registry in the Seller's possession relating to the Boat, current or expired;
2. A properly executed Bill of Sale relevant to the Purchaser in favour of the Purchaser or his nominee;
3. All other documents of title to the Boat which are in the Seller's possession or control ;
4. Evidence by way of original or true copy documents regarding the VAT status of the Boat including Builder's invoices, evidence of VAT payment and dates of arrival in the European Community;
5. Proof of the Boat's compliance with the Recreational Craft Directive;
6. Instruction manuals and warranty cards for the Boat and all equipment contained within the sale;
7. An express written declaration by the Seller that at the moment of Completion and delivery to the Purchaser the Boat is free of all debts, claims and charges of any every kind.

8. Any delivery order or authority necessary to enable the Purchaser to take immediate possession of the Boat.